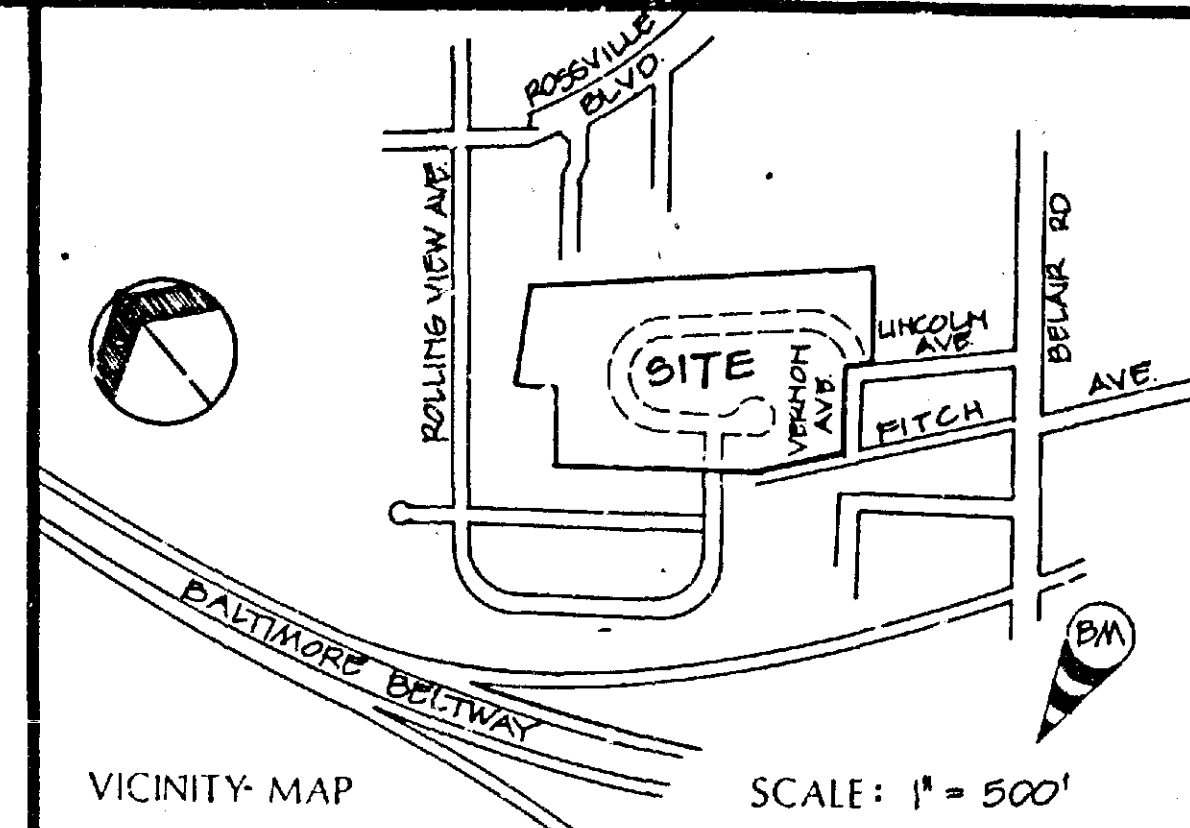


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ROLLING VIEW - PROPERTY OWNERS

37 MICHAEL L. MCDONNELL #22000005 1228/642
39 JANE M. GERTZ #22000000 1229/675
41 RONALD C. SCHIBER #22000007 1229/652
43 DANIEL C. INGRAM #22000000 1229/460
45 BELLA M. BRADLEY #22000009 1229/317
47 JOSEPH P. RANCOIA #22000000 1229/621

DELAIR ROAD PLAZA
SHOPPING CENTER
(PLAT # 98/115)



BENCHMARK
X-6884 N 26034.12 E 24090.03 ELEV. 209.51
CAL. SPIKE IN MACADAM E/S BEL AIR RD., 100' N
OF RAMP TO BELTWAY WEST.

DENSITY CALCULATIONS:

GROSS SITE AREA	9.1 AC +/-
PARCEL "A" AREA	0.10 AC +/-
NET SITE AREA	9.0 AC +/-
EXISTING ZONING	DR-5.5
DENSITY ALLOWED (# 5.5 DWG UNITS/AC)	49.5 DW U.
DENSITY PROPOSED	38
EXISTING USE	FARM
PROPOSED USE	RESIDENTIAL
LOCAL OPEN SPACE REQUIRED (# 650 SF/DWG UNIT)	25,350 SF
LOCAL OPEN SPACE PROPOSED	25,350 SF
PARKING REQUIRED (# 2 SPACES/DWG UNIT)	78 SPACES
PARKING PROPOSED	78
ADT'S (# 10.4 ADT/DWG UNIT)	406 ADT'S
LANDSCAPE REQUIREMENTS	
1 P.U./20 LF INTERIOR ROAD # 1.155 LF	= 57.75 P.U.
1 P.U./40 LF ADJ. ROAD FRONTAGE # 230 LF	= 5.75 P.U.
TOTAL P.U.'S REQUIRED	= 63.50 P.U.
(78% REQ'D. MAJOR DECIDUOUS TREES = 48)	

VARIANCES REQUESTED:

A - VARIANCE TO ALLOW A MINIMUM HORIZONTAL DISTANCE BETWEEN ELEVATIONS OF BUILDINGS NOT MUTUALLY ATTACHED TO BE 20' FOR BUILDING ELEVATIONS GREATER THAN 25', BUT NOT MORE THAN 30' IN LIEU OF THE REQUIRED 30'. SECTION 1801.2.C.1., SECTION 504 & CMMP V.B.3.

B - VARIANCE TO ALLOW A WINDOW TO TRACT BOUNDARY SETBACK TO BE 20' IN LIEU OF THE REQUIRED 35'. SECTION 1801.2.C.2.a. SECTION 504 & CMMP V.B.5.a. VARIANCE TO ALLOW A REAR YARD SETBACK TO AN OPEN PORCH OF 18' IN LIEU OF THE REQUIRED 26.25'. SECTION 1801.1.A., SECTION 1801.2.C.2.a., SECTION 504 & CMMP V.B.5.a.

C - VARIANCE TO ALLOW A SETBACK FROM AN EXISTING STREET CENTERLINE AND R/W, AND THE SIDE BUILDING FACE TO BE 40' AND 15' IN LIEU OF THE REQUIRED 50' AND 25', RESPECTIVELY. SECTION 1801.2.C.3., SECTION 504 & CMMP V.B.9.

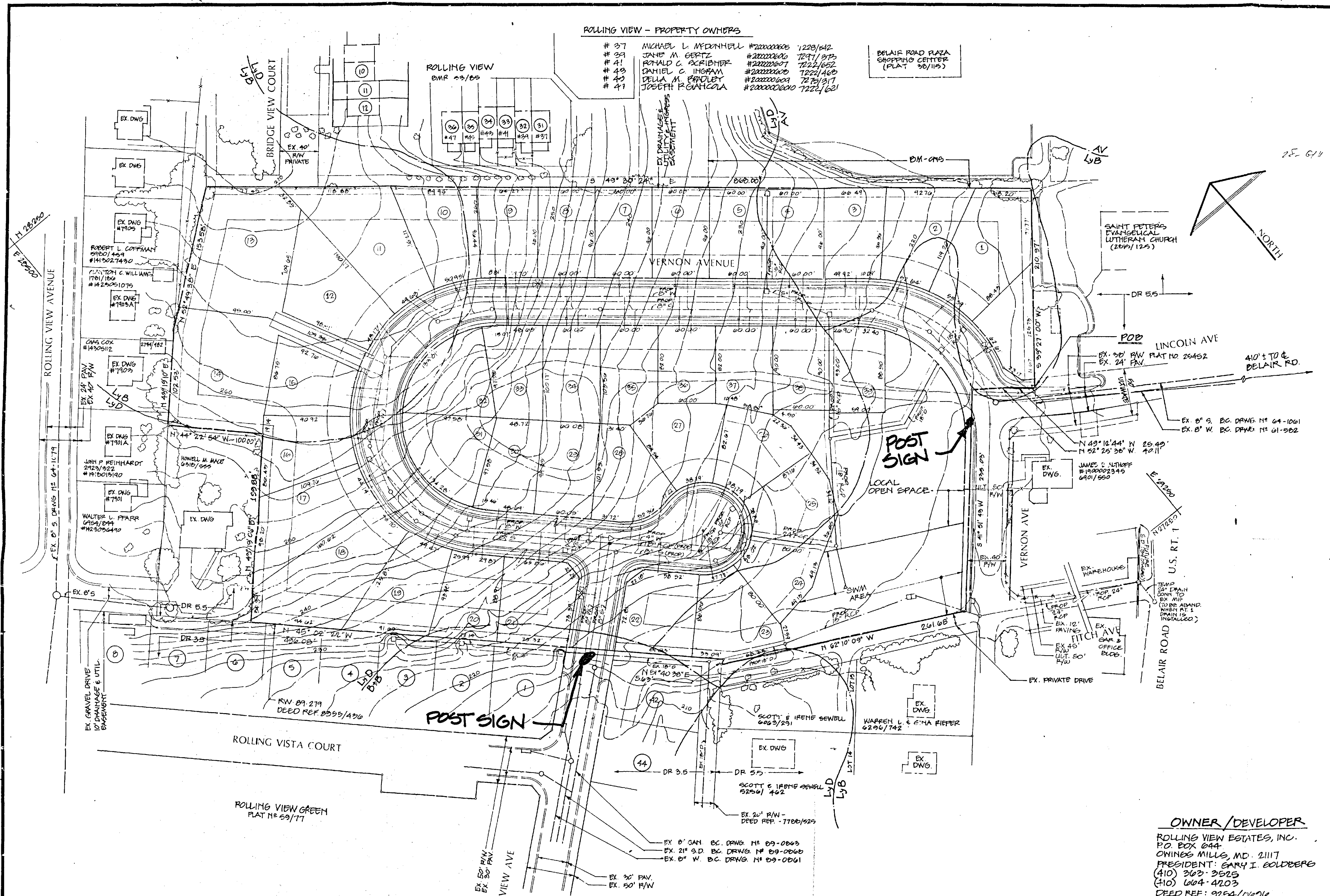
SIGN POSTING PLAN PLAT TO ACCOMPANY PETITION FOR VARIANCES

**THE ESTATES AT ROLLING VIEW
ITEM #447**
PLAT RECORDED: 9/11/99 (9M 69 FOLIO 81)
CRG PLAN APPROVAL DATE: 6/17/90
CENSUS TRACT: 4114.02 COUNC. DIST.: 6
WATERSHED: 22 SUBWATERSHED: 3
H¹ ELECTION DISTRICT BALTO. CO., MD

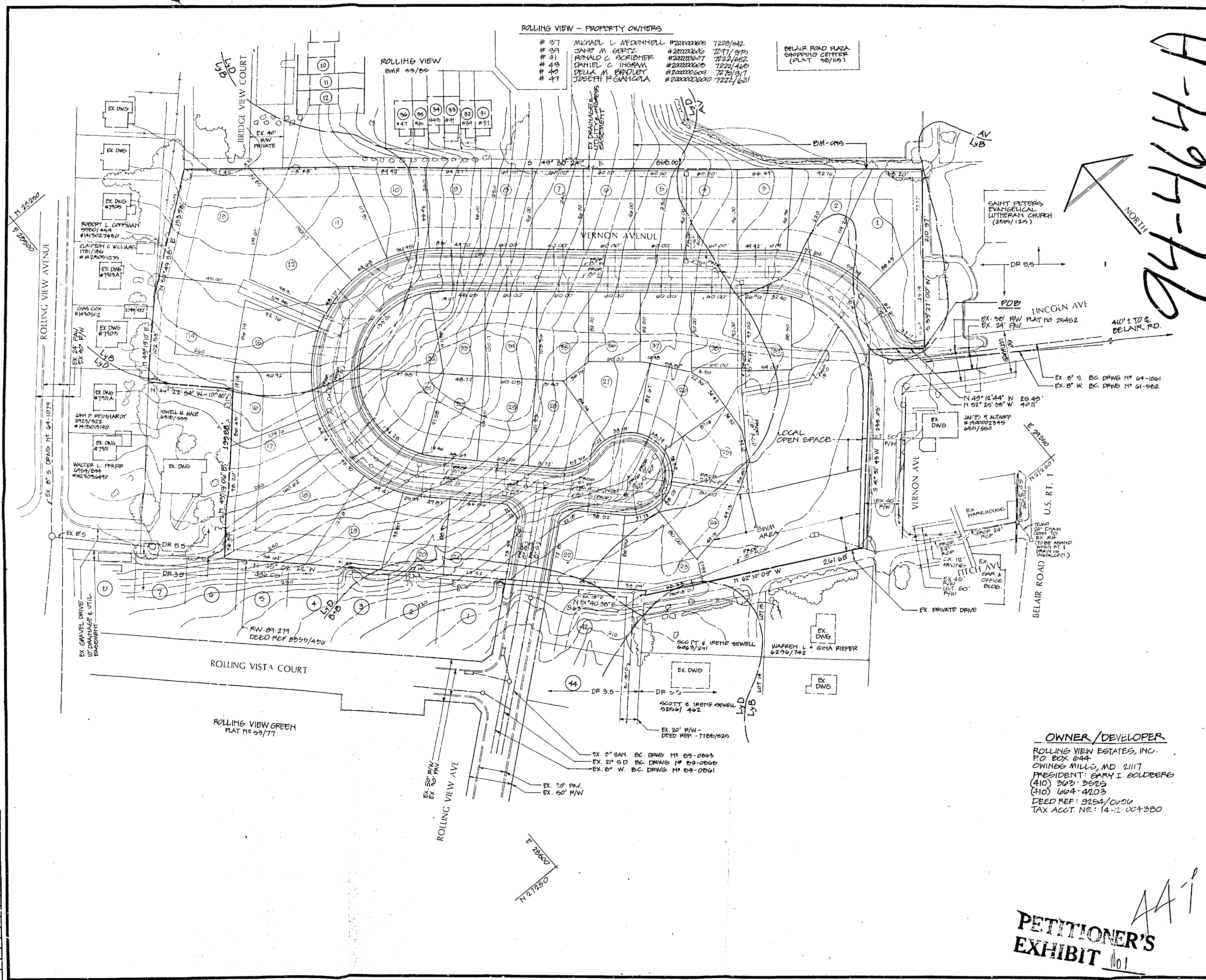
HOFF & ANTONUCCI ASSOCIATES Land Development Consultants and Landscape Architects P.O. Box 27402 Towson, MD 21285-7402 301-628-9229	REVISIONS: DATE: 9/17/94 JOB NO.: 109-02 DESIGNED: DJH DRAWN: DJH CHECKED: DJH DRAWING NUMBER: Z-1	SCALE: 1" = 50' DATE: 9/17/94 JOB NO.: 109-02 DESIGNED: DJH DRAWN: DJH CHECKED: DJH DRAWING NUMBER: Z-1
	SHEET 1 OF 1	

OWNER/DEVELOPER
ROLLING VIEW ESTATES, INC.
P.O. BOX 644
OWINGS MILLS, MD. 21117
PRESIDENT: GARY I. GOLDBERG
(410) 362-3525
(410) 604-4203
DEED REF: 3254/0006
TAX ACCT. NO: 14-12-004380

94-464-A



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ROLLING VIEW - PROPERTY OWNERS

37 MICHAEL L. MCDONNELL #22222222 7223/542
38 JANE M. GERTZ #22222222 7221/872
41 RONALD C. SCRIBNER #22222222 7222/652
43 DANIEL C. INGRAM #22222222 7222/462
44 DELIA M. BRADLEY #22222222 7222/312
47 JOSEPH P. GONCALVES #22222222 7222/621

BEAIRM ROAD PLAZA
SHOPPING CENTER
(PLAT 28/15)

94-464-A

VICINITY MAP SCALE: 1" = 500'

BENCHMARK
X-0884 N 26034.12 E 29090.03 BLV. 209.51
CAL. SPIKE IN MACADAM E/S BEL AIR RD., 100' N
OF RAMP TO BELTWAY WEST.

DENSITY CALCULATIONS:

GROSS SITE AREA.....9.1 AC +/-
PARCEL "A" AREA.....0.10 AC +/-
NET SITE AREA.....9.0 AC +/-
EXISTING ZONING.....DR-5.5
DENSITY ALLOWED (# 5.5 DWG UNITS/AC).....49.5 DW.U.
EXISTING PROPOSED.....37
EXISTING USE.....FARM
PROPOSED USE.....RESIDENTIAL
LOCAL OPEN SPACE REQUIRED (# 650 SF/DWG UNIT).....25,350 SF
LOCAL OPEN SPACE PROPOSED.....25,350 SF
PARKING REQUIRED (# 2 SPACES/DWG UNIT).....78 SPACES
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ADT'S (# 10.4 ADT/DWG UNIT).....406 ADT'S
LANDSCAPE REQUIREMENTS
1 P.U./20 LF INTERIOR ROAD = 1.154 LF.....57.75 P.U.
1 P.U./40 LF ADT. ROAD FRONTAGE = 230 LF.....5.75 P.U.
TOTAL P.U.'S REQUIRED.....63.50 P.U.
(75% REQ'D. MAJOR DECIDUOUS TREES = 48)

VARIANCES REQUESTED:

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B - VARIANCE TO ALLOW A WINDOW TO TRACT BOUNDARY SETBACK TO BE 40' IN LIEU OF THE REQUIRED 35'. SECTION 1801.2.C.2.a., SECTION 504 & CMOP V.B.5.a.

C - VARIANCE TO ALLOW A REAR YARD SETBACK TO AN OPEN PORCH OF 18' IN LIEU OF THE REQUIRED 26.25'. SECTION 1801.1.A., SECTION 1801.2.C.2.a., SECTION 504 & CMOP V.B.5.a.

D - VARIANCE TO ALLOW A SETBACK FROM AN EXISTING STREET CENTERLINE, AND R/W, AND THE SIDE BUILDING FACE TO BE 40' AND 15' IN LIEU OF THE REQUIRED 50' AND 25', RESPECTIVELY. SECTION 1801.2.C.3., SECTION 504 & CMOP V.B.9.

LOT NO.	A	B	C	LOT NO.	A	B	C	LOT NO.	A	B	C
1	*	*	*	15	*	*	*	27	*	*	*
2	*	*	*	16	*	*	*	28	*	*	*
3	*	*	*	17	*	*	*	29	*	*	*
4	*	*	*	18	*	*	*	30	*	*	*
5	*	*	*	19	*	*	*	31	*	*	*
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10	*	*	*	24	*	*	*	36	*	*	*
11	*	*	*	25	*	*	*	37	*	*	*
12	*	*	*	26	*	*	*	38	*	*	*

PLAT TO ACCOMPANY PETITION FOR VARIANCES

THE ESTATES AT ROLLING VIEW

PLAT RECORDED: 5/11/93 (5M 68 FOLIO 01)
CRS PLAN APPROVAL DATE: 6/17/90
CENSUS TRACT: 414.02 COUNCIL DIST: 6
WATERSHED: 22 SUBWATERSHED: 3
14th ELECTION DISTRICT BALTO. CO., MD

HOFF & ANTONUCCI ASSOCIATES
Land Development Consultants and Landscape Architects

REVISIONS:

SCALE: 1" = 50'

DATE: 5/11/94

JOB NO.: 109-02

DESIGNED: JAH

DRAWN: JAH

CHECKED: JAH

DRAWING NUMBER: Z-1

SHEET 1 OF 1

OWNER/DEVELOPER
ROLLING VIEW ESTATES, INC.
P.O. BOX 694
OWINGS MILLS, MD. 21117
PRESIDENT: GARY I. GOLDBERG
(410) 263-2525
(410) 604-4203
DEED REF: 9254/0006
TAX ACCT. NO: 14-12-004380

PETITIONER'S EXHIBIT No. 1

Lawrence S. Conn, Esquire
June 17, 1994
Page 2

2. Any attorney choosing to file without preliminary review should be fully aware of their responsibility for accuracy and completeness. Any petition(s) filed in this manner will be reviewed and commented on by zoning personnel prior to the hearing. There may be insufficient time, however, to correct the petition after the comments are made; and therefore, if the petition(s) was/were filed incorrectly, there is the possibility that another hearing would be required or that the zoning commissioner would deny the petition.
3. Attorneys, engineers, and applicants who make appointments to file petitions on a regular basis and who fail to keep the appointment without a 72-hour notice will be required to submit the appropriate filing fee at the time any further appointments are made. Failure to keep those appointments without 72 hours advance notice will result in the forfeiture of the filing fees.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton at 887-3391 or the commenting agency.

Sincerely,

W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Supervisor

WCR:cmh
Enclosures

**Maryland Department of Transportation
State Highway Administration**

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

5-25-94

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 447 (JLL)

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Bob Small
for **DAVID N. KATZ, ACTING CHIEF**
John Conestabile, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

June 21, 1994

(410) 887-3353

Lawrence S. Conn, Esquire
Smith, Somerville & Case
100 Light Street
Baltimore, Maryland 21202

RE: Case No. 94-464-A, Item No. 447
Petition for Variance

Dear Mr. Conn:

Enclosed are copies of comments received from the Office of Planning and Zoning on June 20, 1994 for the above-referenced case.

If there are any questions, please do not hesitate to call me at 887-3391.

Sincerely,

Charlotte Minton
Charlotte Minton

Enclosure

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management
FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: June 14, 1994

SUBJECT: The Estates at Rolling View

INFORMATION:

Item Number: 447

Petitioner: Rolling View Estates, Inc.

Property Size: _____

Zoning: D.R. 5.5

Requested Action: _____

Hearing Date: _____

SUMMARY OF RECOMMENDATIONS:

Staff has met with the applicant's representative, Mr. Tom Hoff, to discuss refinement of the Final Landscape Plan.

This office supports the applicant's request contingent upon a refinement of the plan to reflect screening of rear yards.

Prepared by: *Jeffrey W. Long*

Division Chief: *Carol L. Kern*

PK/JL:lw

ZAC.447/PZONE/ZAC1

Pg. 1

RE: PETITION FOR VARIANCE
The Estates at Rolling View
NW/S Vernon and Lincoln Avenues
14th Election Dist., 6th Councilmanic
Dist.
FOR BALTIMORE COUNTY
Legal Owner(s): Rolling View, LLC
Petitioners

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to Lawrence S. Conn, Esquire, Smith, Somerville & Case, 100 Light Street, Baltimore, MD 21202, attorney for Petitioners.

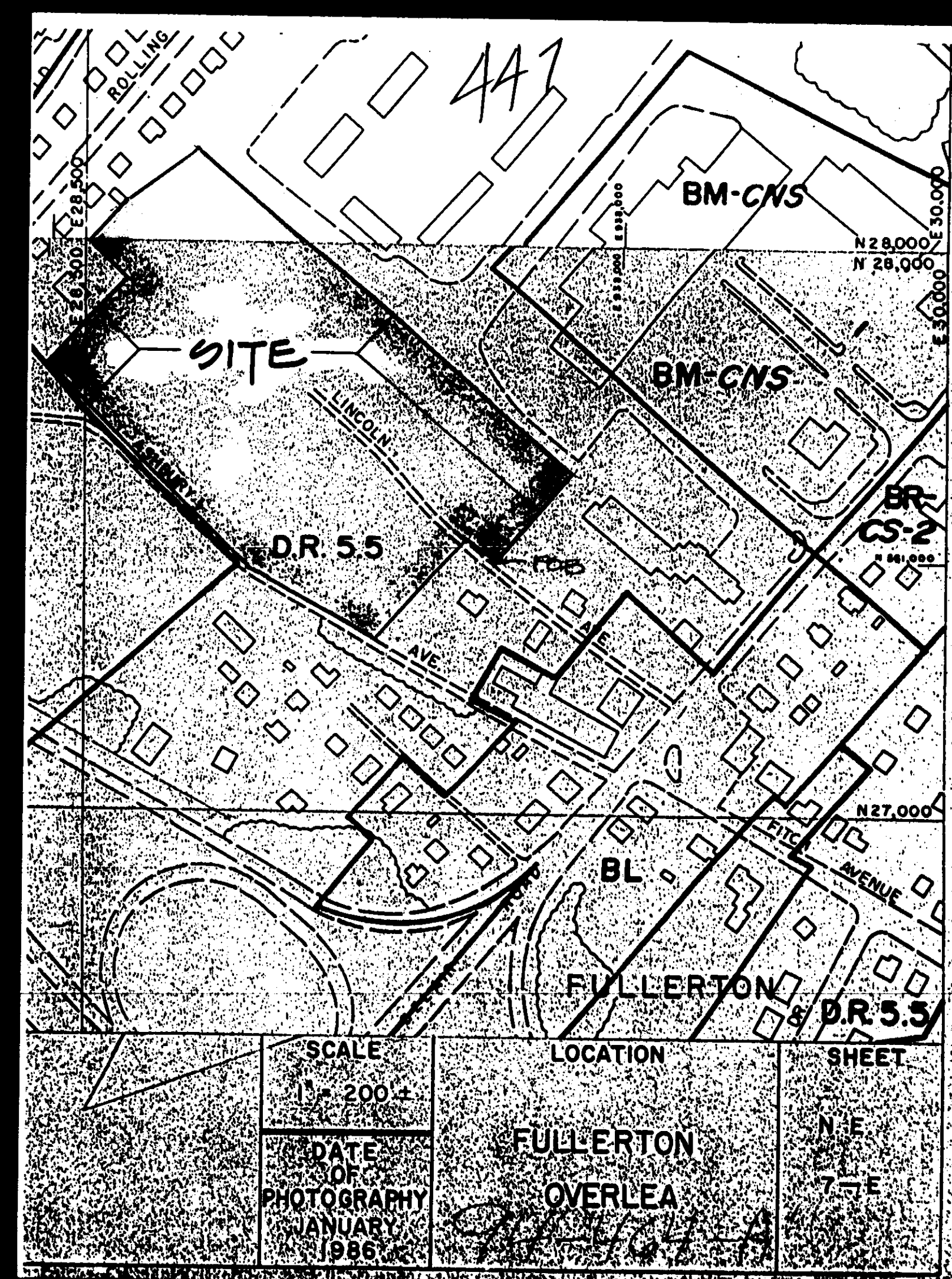
Peter Max Zimmerman
PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
ROBERT J. CARROLL, ATTY. REPRESENTING APPLICANT	SHILOH SUBDIVISION 118E 100 LIGHT STREET BALTIMORE, MD 21202
<i>Thomas J. Hoff</i>	1717 YORK RD SUITE 1B, 21093
<i>Devin Scherer, Baltimore, Md.</i>	6 Barclay Rd, Rockville, MD 20854
<i>GARY R. CAMBER, Rolling View Estates, Inc.</i>	
<i>Gerhardt A. Dehneier (St. Johns)</i>	3400 HISS AVENUE, 21234

Printed with Soybean Ink
on Recycled Paper



RESUME

THOMAS J. HOFF

THOMAS J. HOFF, INC.
t/a HOFF & ANTONUCCI ASSOCIATES
1717 York Road, Suite 1B
Lutherville, Maryland 21093
410-628-9225

EDUCATION:

Bachelor of Science Landscape Architecture,
Magna Cum Laude
West Virginia University, 1976

EXPERIENCE:

January 1992 to Present.
THOMAS J. HOFF, INC.
Lutherville, Maryland
Principal - President. Responsibilities include administration, client relations, site design, project management, government agency coordination and project scheduling for all projects in the office. Project supervision of staff responsible for zoning plans, site plans, grading plans, storm water management plans, sediment control plans, utility plans, public works plans and landscape plans for commercial, residential, industrial, and institutional sites.

December 1986 to December 1991.
HOFF & ANTONUCCI, INC.
Lutherville, Maryland
Principal - President. Responsibilities include administration, client relations, site design, project management, government agency coordination and project scheduling for all projects in the office. Project supervision of staff responsible for zoning plans, site plans, grading plans, storm water management plans, sediment control plans, utility plans, public works plans and landscape plans for commercial, residential, industrial, and institutional sites.

**PETITIONER'S
EXHIBIT 102**

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
NWS Vernon & Lincoln Avenues * ZONING COMMISSIONER
The Estates at Rolling View * OF BALTIMORE COUNTY
14th Election District *
6th Councilmanic District * Case No. 94-464-A
Rolling View, LLC
Petitioner * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for a Zoning Variance for the proposed residential development known as The Estates at Rolling View located on the northwest side of Vernon and Lincoln Avenues in the Fullerton/Overlea section of Baltimore County. Blanket variance relief is requested for 36 of the 39 proposed residential lots in this community. Four separate variances are requested. They are:

- (1) a variance from Section 1B01.2.C.1 of the Baltimore County Zoning Regulations (BCZR) and Section V.B.3 of the Comprehensive Manual of Development Policies (CMDP) to allow a minimum horizontal distance between elevations of buildings not mutually attached to be 20 ft. for building elevations greater than 25 but not more than 30 ft., in lieu of the required 30 ft.
- (2) From Section 1B01.2.C.2.a of the BCZR and V.B.5.a. of the CMDP to allow window to tract boundary setback to be 30 ft. in lieu of the required 35 ft.;
- (3) From Sections 301.1.A, 1B01.2.C.2.a. of the BCZR and V.B.5.a. of the CMDP to allow a rear yard setback to an open porch of 18 ft. in lieu of the required 26.25 ft.
- (4) From Section 1B01.2.C.3 of the BCZR and V.B.9 of the CMDP to allow a setback from an existing street centerline and right of way and side building face to be 40 ft. and 15 ft. in lieu of the required 50 and 25 ft. respectively.

All of the relief requested is more particularly shown on the site plan, submitted as Petitioner's Exhibit No. 1.

Appearing at the public hearing held for this case were Bruce Scherr and Gary R. Gamber on behalf of the property owner, Rolling View, LLC, individually, and as agent for Rolling View, Inc. Also present in support of the Petition was Gerhardt A. Dohmeier from St. Peter's Lutheran Church, which is located next door. Also present was Thomas J. Hoff, the Landscape Architect who prepared the site plan. The Petitioner was represented by Robert J. Carson, Esquire and Honora W. Suter, Esquire. There were no Protestants present.

As noted above, this request comes before the Zoning Commissioner for a series of blanket variances for the proposed residential community known as Estates at Rolling View. The subject tract is approximately 9.1 acres in area and is zoned D.R.5.5. The Petitioner proposes development on said site with 39 single family houses. C.R.G. approval was received for the project on June 20, 1990. An appeal of the C.R.G. decision was subsequently affirmed by the County Board of Appeals. In this instance, setbacks are regulated under the old version of the Comprehensive Manual of Development Policy. This manual was comprehensively revised in 1992 for developments approved after its effective date.

As to the subject variances, they relate to the required distances between structures higher than 20 ft. but not higher than 25 ft., the required distance between windows and tract boundary and the required distance between structures and rear and side yard property lines.

In support of the variances, testimony was received from Mr. Hoff who prepared the plan. He highlighted the history of the plan as set forth above and noted that this would be a compatible development in this area. In fact, other single family communities exist nearby. To the immediate

south of the development is the community of Rolling View Green. Mr. Hoff noted that variances were granted for that subdivision similar to those requested in the instant case in case No. 90-449-A. Moreover, the houses in the subject subdivision will be compatible with the other single family homes in the area. Additionally, the setbacks proposed, even if variances, will be greater than the average as they exist in the neighborhood.

Mr. Hoff also noted that the Office of Planning and Zoning (OPZ) has supported the subject Petition in their Zoning Plans Advisory Committee (ZAC) comment. A suggested restriction was offered by OPZ, however, that certain landscaping be added. In fact, Mr. Hoff testified that he has discussed this matter with OPZ and they have tentatively approved the additional landscaping proposed as shown in Petitioner's Exhibit No. 5.

Also testifying was Gary Gamber, a principal with the property owner. He testified as to the practical difficulty standard enunciated in Section 307 of the B.C.Z.R. In his view, the Petitioner would suffer practical difficulty if the variances were denied. Specifically, the houses would have to be redesigned and reoriented. The resultant project might not be compatible with houses in the existing neighborhood. Moreover, denial of the variance would result in competitive disadvantage to him.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Solay*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation

tion than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variances requested, and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of July, 1994 that a variance from Section 1B01.2.C.1 of the Baltimore County Zoning Regulations (BCZR) and Section V.B.3 of the Comprehensive Manual of Development Policies (CMDP) to allow a minimum horizontal distance between elevations of buildings not mutually

attached to be 20 ft. for building elevations greater than 25 but not more than 30 ft., in lieu of the required 30 ft., be and is hereby GRANTED; and, IT IS FURTHER ORDERED that a variance from Section 1B01.2.C.2.a of the BCZR and V.B.5.a. of the CMDP to allow window to tract boundary setback to be 30 ft. in lieu of the required 35 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Sections 301.1.A, 1B01.2.C.2.a. of the BCZR and V.B.5.a. of the CMDP to allow a rear yard setback to an open porch of 18 ft. in lieu of the required 26.25 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 1B01.2.C.3 of the BCZR and V.B.9 of the CMDP to allow a setback from an existing street centerline and right of way and side building face to be 40 ft. and 15 ft. in lieu of the required 50 and 25 ft., respectively, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioner shall implement additional buffering and screening to certain lots in the subject locale consistent with the ZAC comment submitted by the Office of Planning and Zoning dated June 14, 1994. Such screening shall be substantially similar to that depicted in Petitioner's Exhibit No. 5.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County



Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at N.W. side of Vernon and Lincoln Avenues
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) See attached chart designating the type(s) of set back variance requested for each lot in the recorded subdivision

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

See attached summary of practical difficulty

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to any expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Correct Petitioner/Lessee
N/A
(Type or Print Name)

Signature
Address

City State Zip

Attorney for Petitioner
Lawrence S. Conn

(Type or Print Name)

Signature

Address

City State Zip

Signature

Address

City State Zip

Signature

Address

City State Zip

Who do I currently occupy and often, under the penalties of perjury, that I am the legal owner(s) of the property which is the subject of this Petition

Legal Owner(s)

Rolling View, LLC

Signature

Bruce A. Scherr, Member

(Type or Print Name)

Signature

6 Caraway Road 833-8060

Reisterstown, Maryland 21136

City State Zip

Name Address and phone number(s) representative to be contacted

LAWRENCE S. CONN - SEE ATTORNEY'S ADDRESS

Signature

6 Caraway Road 833-8060

Reisterstown, MD 21136

City State Zip

Signature

Address

City State Zip

Signature

Address

City State Zip

Signature

Address

City State Zip

CHART OF VARIANCES REQUESTED:
C:\GENWKS\109ZONE.WKS

TYPE OF VARIANCES REQUESTED:

- A - VARIANCE TO ALLOW A MINIMUM HORIZONTAL DISTANCE BETWEEN ELEVATIONS OF BUILDINGS NOT MUTUALLY ATTACHED TO BE 20' FOR BUILDING ELEVATIONS GREATER THAN 25, BUT NOT MORE THAN 30', IN LIEU OF THE REQUIRED 30'. SECTION 1B01.2.C.1., SECTION 504 & CMDP V.B.3.
- B - VARIANCE TO ALLOW A WINDOW TO TRACT BOUNDARY SETBACK TO BE 30' IN LIEU OF THE REQUIRED 35'. SECTION 1B01.2.C.2.a. SECTION 504 & CMDP V.B.5.a. VARIANCE TO ALLOW A REAR YARD SETBACK TO AN OPEN PORCH OF 18' IN LIEU OF THE REQUIRED 26.25'. SECTION 301.1.A., SECTION 1B01.2.C.2.a. SECTION 504 & CMDP V.B.5.a.
- C - VARIANCE TO ALLOW A SETBACK FROM AN EXISTING STREET CENTERLINE, AND R/W, AND THE SIDE BUILDING FACE TO BE 40' AND 15' IN LIEU OF THE REQUIRED 50' AND 25', RESPECTIVELY. SECTION 1B01.2.C.3., SECTION 504 & CMDP V.B.9.

LOT	NO.	A	B	C	LOT	NO.	A	B	C	LOT	NO.	A	B	C
1	*				15	*				27	*			
2	*				16	*				28	*			
3	*				17	*				29	*			
4	*				18	*				30	*			
5	*				19	*				31	*			
6	*				20	*				32	*			
7	*				21	*				33	*			
8	*				22	*				34	*			
9	*				23	*				35	*			
10	*				24	*				36	*			
11	*				25	*				37	*			
12	*				26	*				38	*			
										39	*			

Practical Difficulty

This property is subject to the Baltimore County Zoning Regulations in effect in June, 1990 when the CRG was approved. The current set back requirements permit larger houses on lots of the same size as in this project. The proposed variances would create setbacks in compliance with the current regulations. Compliance with the 1990 Regulations would result in significantly smaller houses on these lots, and would place this developer at a distinct competitive disadvantage with projects in the immediate area. The developer plans to use its existing house plans which have been engineered under the current regulations for other subdivisions in Baltimore County. The developer would be required to prepare new plans, and to modify its current construction procedures, if held to the 1990 regulations.

The standards for granting a variance based on practical difficulty, as stated in *McLean v. Solay*, 270 Md. 208 (1973), are:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Applying these standards to the facts in this project shows the following:

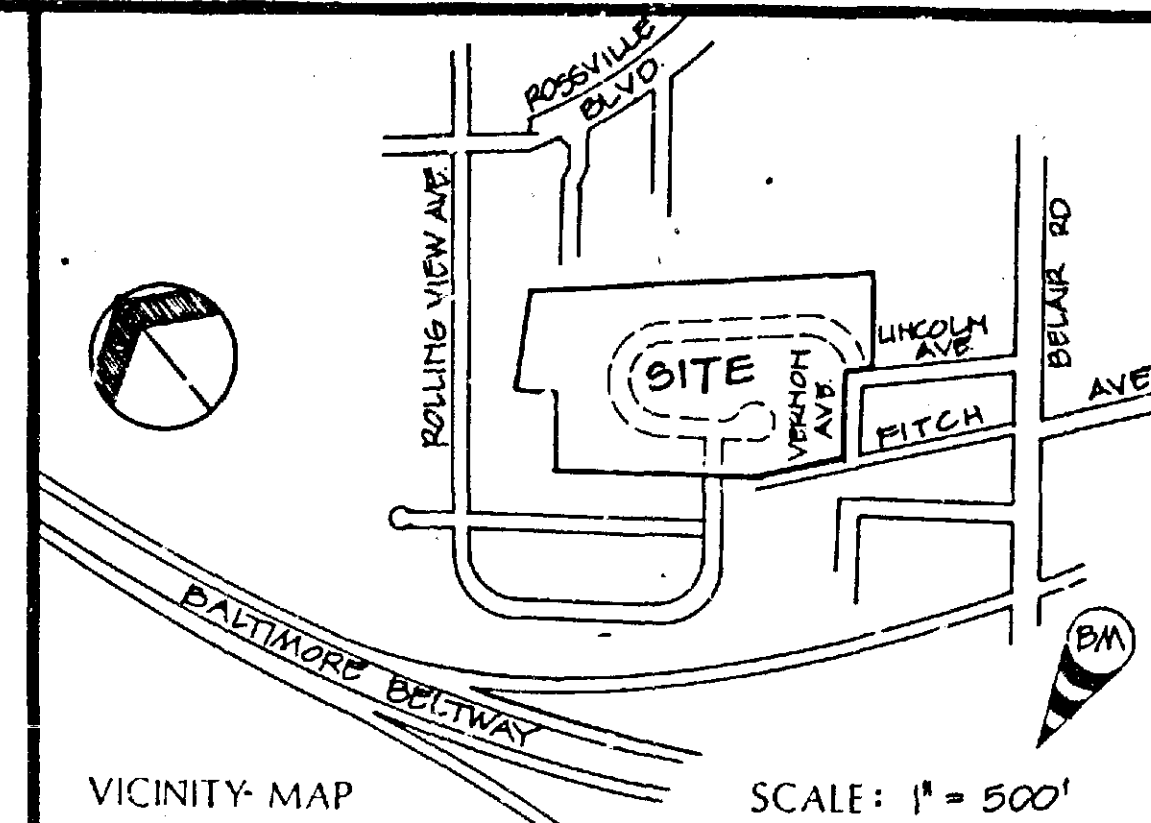
1. Strict compliance would be unnecessarily burdensome to the owner. The owner has existing relationships with contractors and subcontractors who are proficient in construction of houses as they exist in plans for other subdivisions. The existing plans would have to be re-engineered for this project and the contractors and subcontractors would have to re-work their proposals for the new plans, all of which would be required without the variances.
2. Denial of the Petition for Variance would require the developer to construct houses smaller than those in projects which were approved under the new regulations. This would create an unfair competitive advantage for nearby projects and result in substantial injustice to

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ROLLING VIEW - PROPERTY OWNERS

37 MICHAEL L. MCDONNELL #22000005 1228/642
39 JANE M. GERTZ #22000000 1229/675
41 RONALD C. SCHIBER #22000007 1229/652
43 DANIEL C. INGRAM #22000000 1229/460
45 BELLA M. BRADLEY #22000009 1229/317
47 JOSEPH P. RANCOIA #22000000 1229/621

DELAIR ROAD PLAZA
SHOPPING CENTER
(PLAT # 58/115)



BENCHMARK
X-6884 N 26034.12 E 24090.03 ELEV. 209.51
CAL. SPIKE IN MACADAM E/S BEL AIR RD., 100' N
OF RAMP TO BELTWAY WEST.

DENSITY CALCULATIONS:

GROSS SITE AREA	9.1 AC +/-
PARCEL "A" AREA	0.10 AC +/-
NET SITE AREA	9.0 AC +/-
EXISTING ZONING	DR-5.5
DENSITY ALLOWED (# 5.5 DWG UNITS/AC)	49.5 DW U.
DENSITY PROPOSED	38
EXISTING USE	FARM
PROPOSED USE	RESIDENTIAL
LOCAL OPEN SPACE REQUIRED (# 650 SF/DWG UNIT)	25,350 SF
LOCAL OPEN SPACE PROPOSED	25,350 SF
PARKING REQUIRED (# 2 SPACES/DWG UNIT)	78 SPACES
PARKING PROPOSED	78
ADT'S (# 10.4 ADT/DWG UNIT)	406 ADT'S
LANDSCAPE REQUIREMENTS	
1 P.U./20 LF INTERIOR ROAD @ 1.155 LF	= 57.75 P.U.
1 P.U./40 LF ADJ. ROAD FRONTAGE @ 230 LF	= 5.75 P.U.
TOTAL P.U.'S REQUIRED	= 63.50 P.U.
(78% REQ'D. MAJOR DECIDUOUS TREES = 48)	

VARIANCES REQUESTED:

A - VARIANCE TO ALLOW A MINIMUM HORIZONTAL DISTANCE BETWEEN ELEVATIONS OF BUILDINGS NOT MUTUALLY ATTACHED TO BE 20' FOR BUILDING ELEVATIONS GREATER THAN 25', BUT NOT MORE THAN 30', IN LIEU OF THE REQUIRED 30'. SECTION 1801.2.C.1., SECTION 504 & CMMP V.B.3.

B - VARIANCE TO ALLOW A WINDOW TO TRACT BOUNDARY SETBACK TO BE 20' IN LIEU OF THE REQUIRED 35'. SECTION 1801.2.C.2.a. SECTION 504 & CMMP V.B.5.a. VARIANCE TO ALLOW A REAR YARD SETBACK TO AN OPEN PORCH OF 18' IN LIEU OF THE REQUIRED 26.25'. SECTION 1801.1.A., SECTION 1801.2.C.2.a., SECTION 504 & CMMP V.B.5.a.

C - VARIANCE TO ALLOW A SETBACK FROM AN EXISTING STREET CENTERLINE, AND R/W, AND THE SIDE BUILDING FACE TO BE 40' AND 15' IN LIEU OF THE REQUIRED 50' AND 25', RESPECTIVELY. SECTION 1801.2.C.3., SECTION 504 & CMMP V.B.9.

LOT NO.	A	B	C	LOT NO.	A	B	C	LOT NO.	A	B	C
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11	*			25	*			37	*		
12	*			26	*			38	*		

SIGN POSTING PLAN
PLAT TO ACCOMPANY
PETITION FOR VARIANCES

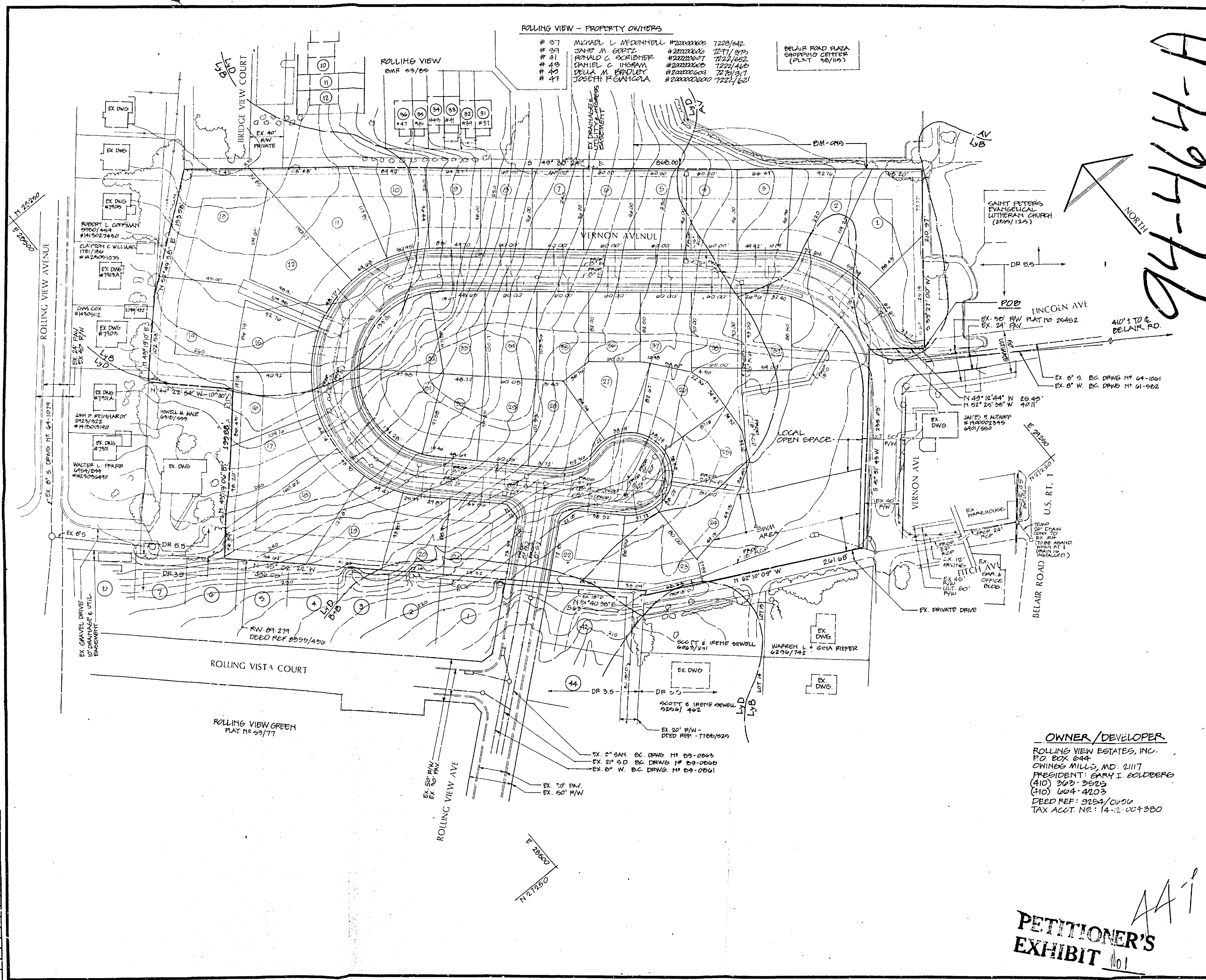
THE ESTATES AT ROLLING VIEW
ITEM #447
PLAT RECORDED: 9/11/99 (9M 69 FOLIO 81)
CRG PLAN APPROVAL DATE: 6/17/90
CENSUS TRACT: 4114.02 COUNC. DIST.: 6
WATERSHED: 22 SUBWATERSHED: 3
H² ELECTION DISTRICT BALTO. CO., MD

HOFF & ANTONUCCI ASSOCIATES Land Development Consultants and Landscape Architects P.O. Box 27402 Towson, MD 21285-7402 301-628-9229	REVISIONS: DATE: 9/17/94 JOB NO.: 109-02 DESIGNED: DJH DRAWN: DJH CHECKED: DJH DRAWING NUMBER: Z-1	SCALE: 1" = 50' DATE: 9/17/94 JOB NO.: 109-02 DESIGNED: DJH DRAWN: DJH CHECKED: DJH DRAWING NUMBER: Z-1
	SHEET 1 OF 1	

OWNER/DEVELOPER
ROLLING VIEW ESTATES, INC.
P.O. BOX 644
OWINGS MILLS, MD. 21117
PRESIDENT: GARY I. GOLDBERG
(410) 362-3525
(410) 604-4203
DEED REF: 3254/0006
TAX ACCT. NO: 14-12-004380

94-464-A

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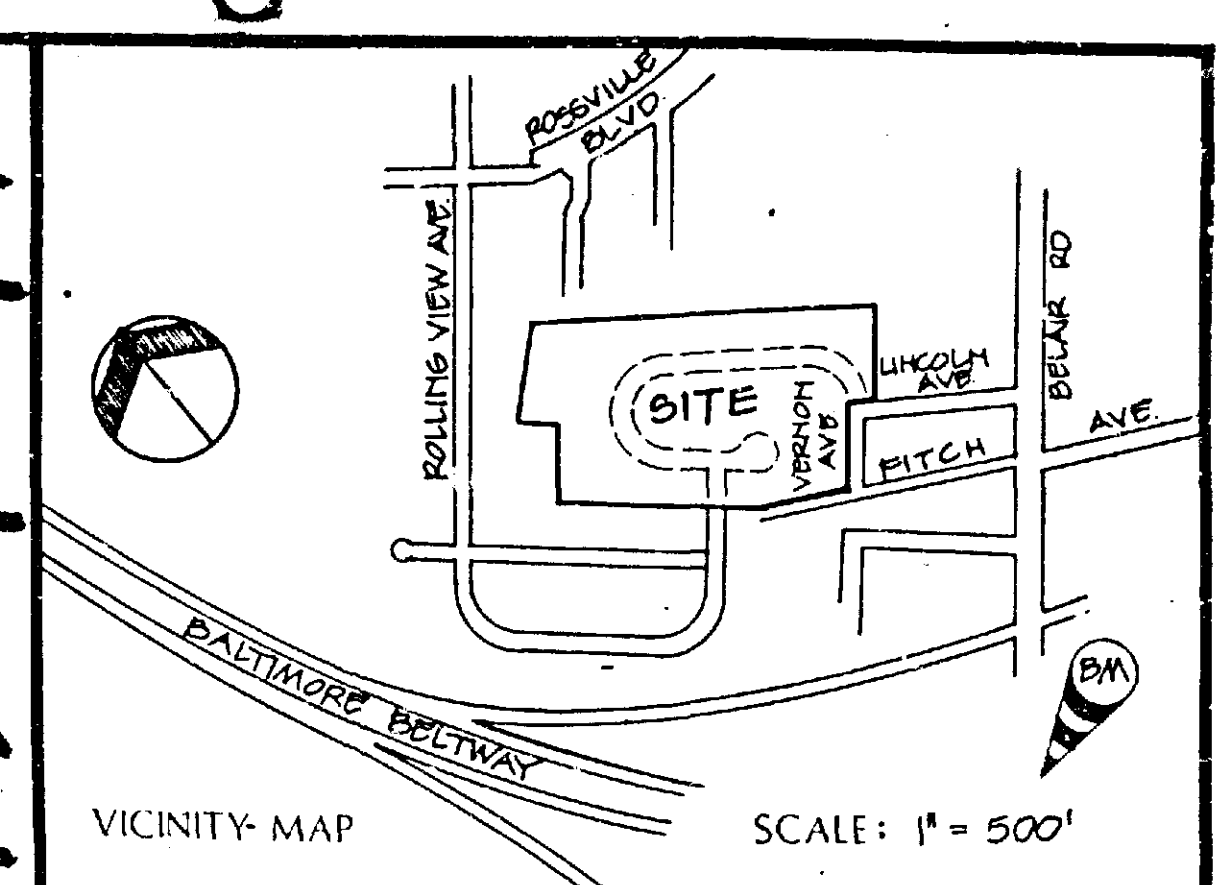


ROLLING VIEW - PROPERTY OWNERS

37 MICHAEL L. MCDONNELL #22222222 7223/542
38 JANE M. GERTZ #22222222 7221/872
41 RONALD C. SCRIBNER #22222222 7222/652
43 DANIEL C. INGRAM #22222222 7222/462
44 DELIA M. BRADLEY #22222222 7222/312
47 JOSEPH P. GONCALVES #22222222 7222/621

BEAIRM ROAD PLAZA
SHOPPING CENTER
(PLAT 28/15)

94-464-A



BENCHMARK
X-0884 N 26034.12 E 29090.03 BLV. 209.51
CAL. SPIKE IN MACADAM E/S BEL AIR RD., 100' N
OF RAMP TO BELTWAY WEST.

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EXISTING ZONING.....DR-5.5
DENSITY ALLOWED (# 5.5 DWG UNITS/AC).....49.5 DW.U.
EXISTING PROPOSED.....37
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1 P.U./40 LF ADT. ROAD FRONTAGE = 230 LF.....5.75 P.U.
TOTAL P.U.'S REQUIRED.....63.50 P.U.
(75% REQ'D. MAJOR DECIDUOUS TREES = 48)

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C - VARIANCE TO ALLOW A SETBACK FROM AN EXISTING STREET CENTERLINE, AND R/W, AND THE SIDE BUILDING FACE TO BE 40' AND 15' IN LIEU OF THE REQUIRED 50' AND 25', RESPECTIVELY. SECTION 1801.2.C.3., SECTION 504 & CMOP V.B.9.

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1	*	*	*	15	*	*	*	27	*	*	*
2	*	*	*	16	*	*	*	28	*	*	*
3	*	*	*	17	*	*	*	29	*	*	*
4	*	*	*	18	*	*	*	30	*	*	*
5	*	*	*	19	*	*	*	31	*	*	*
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12	*	*	*	26	*	*	*	38	*	*	*

PLAT TO ACCOMPANY PETITION FOR VARIANCES

THE ESTATES AT ROLLING VIEW

PLAT RECORDED: 5/11/93 (5M 68 FOLIO 01)
CRS PLAN APPROVAL DATE: 6/17/90
CENSUS TRACT: 414.02 COUNCIL DIST: 6
WATERSHED: 22 SUBWATERSHED: 3
14th ELECTION DISTRICT BALTO. CO., MD

OWNER/DEVELOPER
ROLLING VIEW ESTATES, INC.
P.O. BOX 694
OWINGS MILLS, MD. 21117
PRESIDENT: GARY I. GOLDBERG
(410) 263-2525
(410) 604-4203
DEED REF: 9254/0006
TAX ACCT. NR: 14-12-004380

PETITIONER'S EXHIBIT

HOFF & ANTONUCCI ASSOCIATES
Land Development Consultants and Landscape Architects
P.O. Box 27402
Towson, MD 21285-7402
301-628-9225

REVISIONS:

SCALE: 1" = 50'
DATE: 5/11/94
JOB NO.: 109-02
DESIGNED: JAH
DRAWN: JAH
CHECKED: JAH
DRAWING NUMBER:
Z-1
SHEET 1 OF 1

Lawrence S. Conn, Esquire
June 17, 1994
Page 2

2. Any attorney choosing to file without preliminary review should be fully aware of their responsibility for accuracy and completeness. Any petition(s) filed in this manner will be reviewed and commented on by zoning personnel prior to the hearing. There may be insufficient time, however, to correct the petition after the comments are made; and therefore, if the petition(s) was/were filed incorrectly, there is the possibility that another hearing would be required or that the zoning commissioner would deny the petition.
3. Attorneys, engineers, and applicants who make appointments to file petitions on a regular basis and who fail to keep the appointment without a 72-hour notice will be required to submit the appropriate filing fee at the time any further appointments are made. Failure to keep those appointments without 72 hours advance notice will result in the forfeiture of the filing fees.

If you have any questions concerning the enclosed comments, please feel free to contact Charlotte Minton at 887-3391 or the commenting agency.

Sincerely,

W. Carl Richards, Jr.
W. Carl Richards, Jr.
Zoning Supervisor

WCR:cmh
Enclosures

**Maryland Department of Transportation
State Highway Administration**

O. James Lighthizer
Secretary
Hal Kassoff
Administrator

5-25-94

Ms. Charlotte Minton
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County
Item No.: 447 (JLL)

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,
Bob Small
for **DAVID N. KATZ, ACTING CHIEF**
John Conestabile, Chief
Engineering Access Permits
Division

BS/

My telephone number is _____
Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free
Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Baltimore County Government
Office of Zoning Administration
and Development Management



111 West Chesapeake Avenue
Towson, MD 21204

June 21, 1994

(410) 887-3353

Lawrence S. Conn, Esquire
Smith, Somerville & Case
100 Light Street
Baltimore, Maryland 21202

RE: Case No. 94-464-A, Item No. 447
Petition for Variance

Dear Mr. Conn:

Enclosed are copies of comments received from the Office of Planning and Zoning on June 20, 1994 for the above-referenced case.

If there are any questions, please do not hesitate to call me at 887-3391.

Sincerely,

Charlotte Minton
Charlotte Minton

Enclosure

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration &
Development Management
FROM: Pat Keller, Director
Office of Planning and Zoning

DATE: June 14, 1994

SUBJECT: The Estates at Rolling View

INFORMATION:

Item Number: 447

Petitioner: Rolling View Estates, Inc.

Property Size: _____

Zoning: D.R. 5.5

Requested Action: _____

Hearing Date: _____

SUMMARY OF RECOMMENDATIONS:

Staff has met with the applicant's representative, Mr. Tom Hoff, to discuss refinement of the Final Landscape Plan.

This office supports the applicant's request contingent upon a refinement of the plan to reflect screening of rear yards.

Prepared by: *Jeffrey M. Long*

Division Chief: *Carol L. Kern*

PK/JL:lw

ZAC.447/PZONE/ZAC1

Pg. 1

RE: PETITION FOR VARIANCE
The Estates at Rolling View
NW/S Vernon and Lincoln Avenues
14th Election Dist., 6th Councilmanic
Dist.
FOR BALTIMORE COUNTY
Legal Owner(s): Rolling View, LLC
Petitioners

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of May, 1994, a copy of the foregoing Entry of Appearance was mailed to Lawrence S. Conn, Esquire, Smith, Somerville & Case, 100 Light Street, Baltimore, MD 21202, attorney for Petitioners.

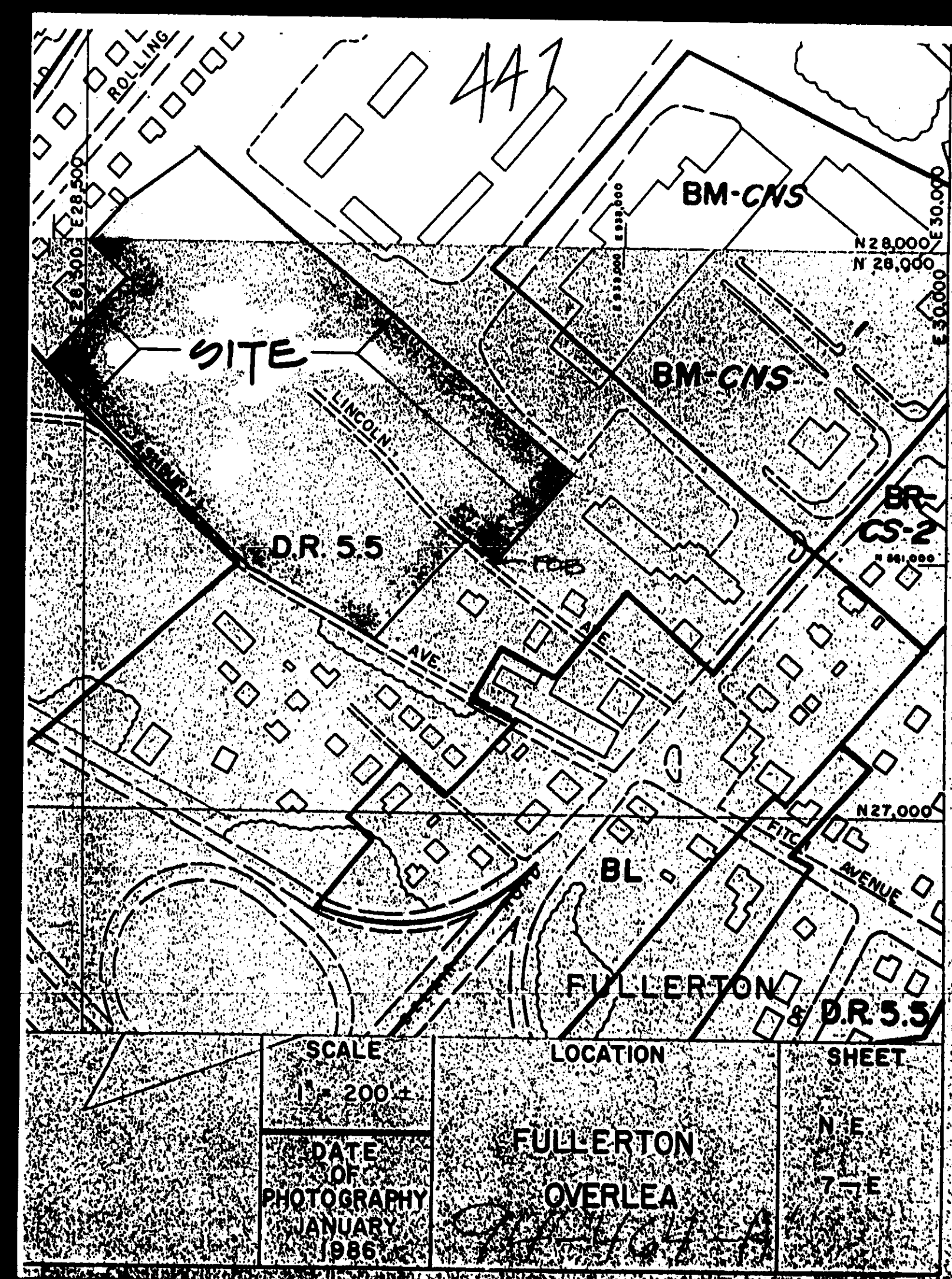
Peter Max Zimmerman
PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
ROBERT J. CARROLL, ATTY. REPRESENTING APPLICANT	SHILOH SUBDIVISION 118E 100 LIGHT STREET BALTIMORE, MD 21202
THOMAS J. HOFF	1717 YORK RD SUITE 1B, 21093
DEVON S. HOFF, Baltimore, Inc.	6 Barclay Rd. Reston, VA 20190
GARY R. CAMBER, Rolling View Estates, Inc.	3400 HISS AVENUE, 21234
Gerhardt A. Dehneier	

Printed with Soybean Ink
on Recycled Paper



RESUME

THOMAS J. HOFF

THOMAS J. HOFF, INC.
t/a HOFF & ANTONUCCI ASSOCIATES
1717 York Road, Suite 1B
Lutherville, Maryland 21093
410-628-9225

EDUCATION:

Bachelor of Science Landscape Architecture,
Magna Cum Laude
West Virginia University, 1976

EXPERIENCE:

January 1992 to Present.
THOMAS J. HOFF, INC.
Lutherville, Maryland
Principal - President. Responsibilities include administration, client relations, site design, project management, government agency coordination and project scheduling for all projects in the office. Project supervision of staff responsible for zoning plans, site plans, grading plans, storm water management plans, sediment control plans, utility plans, public works plans and landscape plans for commercial, residential, industrial, and institutional sites.

December 1986 to December 1991.
HOFF & ANTONUCCI, INC.
Lutherville, Maryland
Principal - President. Responsibilities include administration, client relations, site design, project management, government agency coordination and project scheduling for all projects in the office. Project supervision of staff responsible for zoning plans, site plans, grading plans, storm water management plans, sediment control plans, utility plans, public works plans and landscape plans for commercial, residential, industrial, and institutional sites.

**PETITIONER'S
EXHIBIT 102**

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
NWS Vernon & Lincoln Avenues * ZONING COMMISSIONER
The Estates at Rolling View * OF BALTIMORE COUNTY
14th Election District *
6th Councilmanic District * Case No. 94-464-A
Rolling View, LLC
Petitioner * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for a Zoning Variance for the proposed residential development known as The Estates at Rolling View located on the northwest side of Vernon and Lincoln Avenues in the Fullerton/Overlea section of Baltimore County. Blanket variance relief is requested for 36 of the 39 proposed residential lots in this community. Four separate variances are requested. They are:

- (1) a variance from Section 1B01.2.C.1 of the Baltimore County Zoning Regulations (BCZR) and Section V.B.3 of the Comprehensive Manual of Development Policies (CMDP) to allow a minimum horizontal distance between elevations of buildings not mutually attached to be 20 ft. for building elevations greater than 25 but not more than 30 ft., in lieu of the required 30 ft.
- (2) From Section 1B01.2.C.2.a of the BCZR and V.B.5.a. of the CMDP to allow window to tract boundary setback to be 30 ft. in lieu of the required 35 ft.;
- (3) From Sections 301.1.A, 1B01.2.C.2.a. of the BCZR and V.B.5.a. of the CMDP to allow a rear yard setback to an open porch of 18 ft. in lieu of the required 26.25 ft.
- (4) From Section 1B01.2.C.3 of the BCZR and V.B.9 of the CMDP to allow a setback from an existing street centerline and right of way and side building face to be 40 ft. and 15 ft. in lieu of the required 50 and 25 ft. respectively.

All of the relief requested is more particularly shown on the site plan, submitted as Petitioner's Exhibit No. 1.

Appearing at the public hearing held for this case were Bruce Scherr and Gary R. Gamber on behalf of the property owner, Rolling View, LLC, individually, and as agent for Rolling View, Inc. Also present in support of the Petition was Gerhardt A. Dohmeier from St. Peter's Lutheran Church, which is located next door. Also present was Thomas J. Hoff, the Landscape Architect who prepared the site plan. The Petitioner was represented by Robert J. Carson, Esquire and Honora W. Suter, Esquire. There were no Protestants present.

As noted above, this request comes before the Zoning Commissioner for a series of blanket variances for the proposed residential community known as Estates at Rolling View. The subject tract is approximately 9.1 acres in area and is zoned D.R.5.5. The Petitioner proposes development on said site with 39 single family houses. C.R.G. approval was received for the project on June 20, 1990. An appeal of the C.R.G. decision was subsequently affirmed by the County Board of Appeals. In this instance, setbacks are regulated under the old version of the Comprehensive Manual of Development Policy. This manual was comprehensively revised in 1992 for developments approved after its effective date.

As to the subject variances, they relate to the required distances between structures higher than 20 ft. but not higher than 25 ft., the required distance between windows and tract boundary and the required distance between structures and rear and side yard property lines.

In support of the variances, testimony was received from Mr. Hoff who prepared the plan. He highlighted the history of the plan as set forth above and noted that this would be a compatible development in this area. In fact, other single family communities exist nearby. To the immediate

south of the development is the community of Rolling View Green. Mr. Hoff noted that variances were granted for that subdivision similar to those requested in the instant case in case No. 90-449-A. Moreover, the houses in the subject subdivision will be compatible with the other single family homes in the area. Additionally, the setbacks proposed, even if variances, will be greater than the average as they exist in the neighborhood.

Mr. Hoff also noted that the Office of Planning and Zoning (OPZ) has supported the subject Petition in their Zoning Plans Advisory Committee (ZAC) comment. A suggested restriction was offered by OPZ, however, that certain landscaping be added. In fact, Mr. Hoff testified that he has discussed this matter with OPZ and they have tentatively approved the additional landscaping proposed as shown in Petitioner's Exhibit No. 5.

Also testifying was Gary Gamber, a principal with the property owner. He testified as to the practical difficulty standard enunciated in Section 307 of the B.C.Z.R. In his view, the Petitioner would suffer practical difficulty if the variances were denied. Specifically, the houses would have to be redesigned and reoriented. The resultant project might not be compatible with houses in the existing neighborhood. Moreover, denial of the variance would result in competitive disadvantage to him.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Solay*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation

tion than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship will result if the variances are not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variances requested, and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not cause any injury to the public health, safety and general welfare. Further, granting of the variance will be in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 24th day of July, 1994 that a variance from Section 1B01.2.C.1 of the Baltimore County Zoning Regulations (BCZR) and Section V.B.3 of the Comprehensive Manual of Development Policies (CMDP) to allow a minimum horizontal distance between elevations of buildings not mutually

attached to be 20 ft. for building elevations greater than 25 but not more than 30 ft., in lieu of the required 30 ft., be and is hereby GRANTED; and, IT IS FURTHER ORDERED that a variance from Section 1B01.2.C.2.a of the BCZR and V.B.5.a. of the CMDP to allow window to tract boundary setback to be 30 ft. in lieu of the required 35 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Sections 301.1.A, 1B01.2.C.2.a. of the BCZR and V.B.5.a. of the CMDP to allow a rear yard setback to an open porch of 18 ft. in lieu of the required 26.25 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 1B01.2.C.3 of the BCZR and V.B.9 of the CMDP to allow a setback from an existing street centerline and right of way and side building face to be 40 ft. and 15 ft. in lieu of the required 50 and 25 ft., respectively, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioner shall implement additional buffering and screening to certain lots in the subject locale consistent with the ZAC comment submitted by the Office of Planning and Zoning dated June 14, 1994. Such screening shall be substantially similar to that depicted in Petitioner's Exhibit No. 5.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County



Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at N.W. side of Vernon and Lincoln Avenues
which is presently zoned DR 5.5

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) See attached chart designating the type(s) of set back variance requested for each lot in the recorded subdivision

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

See attached summary of practical difficulty

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to any expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Correct Petitioner/Lessee
N/A
(Type or Print Name)

Signature
Address

City State Zip

Attorney for Petitioner
Lawrence S. Conn
(Type or Print Name)

Smith, Somerville & Case
100 Light St., 727-1164
Baltimore, Maryland 21202

Who do I currently occupy and often, under the parcels of property, that are the legal owner(s) of the property which is the subject of the Petition

Rolling View, LLC
(Type or Print Name)

Signature
Bruce A. Scherr, Member
(Type or Print Name)

City State Zip
6 Caraway Road 833-8060
Reisterstown, Maryland 21136

Attorney for Petitioner
Lawrence S. Conn - See ATTORNEY'S ADDRESS
(Type or Print Name)

City State Zip
6 Caraway Road 833-8060
Reisterstown, MD 21136
OFFICE USE ONLY

RECEIVED BY DATE

CHART OF VARIANCES REQUESTED:
C:\GENWKS\109ZONE.WKS

TYPE OF VARIANCES REQUESTED:

- A - VARIANCE TO ALLOW A MINIMUM HORIZONTAL DISTANCE BETWEEN ELEVATIONS OF BUILDINGS NOT MUTUALLY ATTACHED TO BE 20' FOR BUILDING ELEVATIONS GREATER THAN 25, BUT NOT MORE THAN 30', IN LIEU OF THE REQUIRED 30'. SECTION 1B01.2.C.1., SECTION 504 & CMDP V.B.3.
- B - VARIANCE TO ALLOW A WINDOW TO TRACT BOUNDARY SETBACK TO BE 30' IN LIEU OF THE REQUIRED 35'. SECTION 1B01.2.C.2.a. SECTION 504 & CMDP V.B.5.a. VARIANCE TO ALLOW A REAR YARD SETBACK TO AN OPEN PORCH OF 18' IN LIEU OF THE REQUIRED 26.25'. SECTION 301.1.A., SECTION 1B01.2.C.2.a. SECTION 504 & CMDP V.B.5.a.
- C - VARIANCE TO ALLOW A SETBACK FROM AN EXISTING STREET CENTERLINE, AND R/W, AND THE SIDE BUILDING FACE TO BE 40' AND 15' IN LIEU OF THE REQUIRED 50' AND 25', RESPECTIVELY. SECTION 1B01.2.C.3., SECTION 504 & CMDP V.B.9.

LOT	NO.	A	B	C	LOT	NO.	A	B	C	LOT	NO.	A	B	C
1	*				15	*				27	*			
2	*				16	*				28	*			
3	*				17	*				29	*			
4	*				18	*				30	*			
5	*				19	*				31	*			
6	*				20	*				32	*			
7	*				21	*				33	*			
8	*				22	*				34	*			
9	*				23	*				35	*			
10	*				24	*				36	*			
11	*				25	*				37	*			
12	*				26	*				38	*			
										39	*			

Practical Difficulty

This property is subject to the Baltimore County Zoning Regulations in effect in June, 1990 when the CRG was approved. The current set back requirements permit larger houses on lots of the same size as in this project. The proposed variances would create setbacks in compliance with the current regulations. Compliance with the 1990 Regulations would result in significantly smaller houses on these lots, and would place this developer at a distinct competitive disadvantage with projects in the immediate area. The developer plans to use its existing house plans which have been engineered under the current regulations for other subdivisions in Baltimore County. The developer would be required to prepare new plans, and to modify its current construction procedures, if held to the 1990 regulations.

The standards for granting a variance based on practical difficulty, as stated in *McLean v. Solay*, 270 Md. 208 (1973), are:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Applying these standards to the facts in this project shows the following:

1. Strict compliance would be unnecessarily burdensome to the owner. The owner has existing relationships with contractors and subcontractors who are proficient in construction of houses as they exist in plans for other subdivisions. The existing plans would have to be re-engineered for this project and the contractors and subcontractors would have to re-work their proposals for the new plans, all of which would be required without the variances.
2. Denial of the Petition for Variance would require the developer to construct houses smaller than those in projects which were approved under the new regulations. This would create an unfair competitive advantage for nearby projects and result in substantial injustice to